



DIVISION OF  
ENFORCEMENT

UNITED STATES  
**SECURITIES AND EXCHANGE COMMISSION**  
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WASHINGTON, D.C. 20549

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April 27, 2023

**VIA ECF**

The Honorable Katharine S. Hayden  
United States District Judge  
The Honorable Cathy L. Waldor  
United States Magistrate Judge  
United States District Court  
District of New Jersey  
Martin Luther King Building Courthouse  
50 Walnut Street  
Newark, NJ 07101

Re: SEC v. Vuuzle Media Corp., et al.; Case No. 2:21-cv-01226 (D.N.J.)

Your Honors:

Plaintiff U.S. Securities and Exchange Commission ("SEC") writes in connection with its pending Motion for Entry of Default and for Default Judgment. ("Motion for Default," ECF No. 144). For the reasons set forth below, the SEC respectfully asks the Court to rule on that Motion.

The SEC filed its Motion for Default on November 11, 2022. On January 24, 2023, the Court gave Defendant Richard Marchitto until March 24, 2023 either to oppose the SEC's Motion or have an attorney enter a notice of appearance. (ECF No. 148). Marchitto has done neither. Instead, he has merely submitted a letter claiming that he does not have the resources to hire counsel and asking the Court to grant summary judgment in his favor. (ECF No. 149). While the SEC recognizes that Marchitto is proceeding *pro se* and that his filings should be construed liberally, a *pro se* defendant must still abide by the Federal Rules of Civil Procedure and the Court's orders. *Ramada Worldwide Inc. v. Highend Hotel Group of America, LLC*, No. 20-cv-14020, 2022 WL 17730928, at \*3 n.2 (D.N.J. Sept. 28, 2022); *Payamps v. Huan Le*, No. 12-cv-7021, 2013 WL 6326379, at \*3 (D.N.J. Dec. 4, 2013) (dismissing case and explaining that "proceeding *pro se* does not insulate a litigant from personal responsibility"). Here, Marchitto has still not complied with the Court's order, nor answered the SEC's Amended Complaint, nor responded to the SEC's discovery requests. Because the Clerk has already entered a default against Marchitto (May 19, 2022 docket entry), and because Marchitto has not shown good cause to remove the default, it goes without saying that the Court should not take up his purported motion for summary judgment. *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 128 (2d Cir. 2011) (explaining that the initial entry of default under Rule 55(a) "formalizes a judicial

recognition that a defendant has, through its failure to defend the action, admitted liability to the plaintiff”).

Equally important, Marchitto is the only party that has made any response to the Motion for Default, which remains unopposed by Defendants Vuuzle Media Corp., Vuuzle Media Corp. Limited, and Ronald Shane Flynn, and Relief Defendant Vumu Music LLC. As numerous courts have recognized, there is a strong public interest in the swift resolution of SEC actions. *See, e.g., SEC v. Rayat*, 2022 WL 3656314, at \*9 (S.D.N.Y. Aug. 24, 2022) (emphasizing the SEC’s “statutory mandate to protect the public interest through *prompt* and effective enforcement of the federal securities laws”) (emphasis in original) (citation and quotation omitted); *SEC v. CKB168 Holdings, Ltd.*, No. 13-cv-5584, 2016 WL 11472222, at \*4 (E.D.N.Y. Jan. 6, 2016) (denying stay in light of “significant public interest in prompt resolution of securities cases”). Accordingly, in light of the fact that no Defendant or Relief Defendant is opposing the Motion for Default, the SEC respectfully asks the Court to rule on it. If the Court grants the Motion for Default, the SEC will then be able to seek financial recovery from the Defendants and Relief Defendant and, should any money be recovered, distribute those funds to victims of this egregious fraud.

Respectfully Submitted,

*Daniel Maher*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on April 27, 2023, I served a copy of the foregoing using this Court’s ECF system, upon Defendant Ronald Shane Flynn and the entities he controls, Defendant Vuuzle Media Corp. Limited and Relief Defendant Vumu Music LLC, by email at [rflynn48@gmail.com](mailto:rflynn48@gmail.com) and [rflynn57@protonmail.com](mailto:rflynn57@protonmail.com), upon Defendant Vuuzle Media Corp. by email at [johnrobertlamb@protonmail.com](mailto:johnrobertlamb@protonmail.com), and upon Defendant Richard Marchitto at his address, 77 Fallen Timbers Trail, Rockaway, NJ 07866.

/s/ Daniel J. Maher  
Counsel for Plaintiff

